

Department Response: Option 1, which allows for sport fisheries for all of July in the KMZ and Fort Bragg area (all ports north of Point Arena), was adopted by the PFMC and the Commission. While the impact of a full July sport fishery in the KMZ might have an effect on the allowable Commercial harvest of salmon in the Fort Bragg area, the PFMC is the deciding body in this regard. The third comment can not be addressed by the Section 27.80 regulations.

- (2) Comment by Mr. Paul Weakland, April 4, 2003 Commission meeting:
Mr. Weakland discussed that: (1) the salmon recovery is well beyond what was expected and it appears recovery efforts were left out of the abundance analyses; and (2) he would like to see a publication and a peer review of the salmon disease study that was conducted.

Department Response: The improved salmon recovery is reflected in the recent large escapement levels that are used in the ocean abundance analyses. The second comment can not be addressed by the Section 27.80 regulations.

- (3) Comment by Mr. Gene Kramer, March 26, 2003 e-mail to Commission:
Mr. Kramer would like to see the bag limit increased from two to three salmon per day for the sport fishery to offset the loss of other species fishing opportunities.

Department Response: Increasing the bag limit for salmon is counter to the National Marine Fisheries Services' 2000 Biological Opinion for endangered Sacramento Winter Chinook that states recreational fisheries south of Point Arena must not change substantially relative to 2000 and 2001 seasons.

VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:

California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VIII. Location of Department files:

Department of Fish and Game
1416 Ninth Street
Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

The PFMC examined various alternatives in the process of adopting the management options on March 14, 2003 for public review. These included such alternatives as:

1. minimum size of salmon that may be retained;

2. the number of rods anglers may use (e.g., one, two, or unlimited);
3. the type of bait and/or terminal gear that may be used (e.g., amount of weight, hook type, type of bait or no bait);
4. the number of salmon that may be retained per angler-day or period of days;
5. allowable fishing dates and areas; and
6. the overall number of salmon that may be harvested, by species and area.

The final regulation recommendations were made by the PFMC on April 10, 2003.

(b) No Change Alternative:

Upon approval of the PFMC's management recommendations by the Secretary of Commerce (SOC), the State must move in a timely manner to conform its ocean sport fishing regulations for salmon within State waters (0 to 3 miles offshore) to those adopted by the SOC. Otherwise, preemption of State regulatory authority by the SOC may occur.

(c) Consideration of Alternatives:

In view of the information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

X. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action have been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of

California businesses to compete with businesses in other states. Regulations close to the status quo are expected to be adopted.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None
- (c) Cost Impact on a Representative Private Person or Business: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Other Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None
- (g) Costs Imposed on Any Local Agency or School District That Is Required to Be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

Updated Informative Digest (Plain English Overview)

Annually, the Pacific Fishery Management Council (Council) develops ocean salmon fishing regulations that must meet specific spawning escapement goals for the stocks on which California's ocean salmon fisheries are managed under the Council's Salmon Fishery Management Plan (FMP). The FMP requires that the ocean salmon fisheries south of Cape Falcon (in northern Oregon) must be managed to ensure that: (1) no less than 35,000 adult Klamath fall chinook be allowed to spawn in natural areas (i.e., outside of hatcheries) after allowing for the recreational and Tribal in-river fisheries; (2) 122,000 to 180,000 adult fall chinook salmon are allowed to return to the Sacramento River and its tributaries to spawn; (3) the duration and timing of fishing seasons south of Point Arena not change substantially relative to the 2000 and 2001 seasons to protect Sacramento winter chinook (as mandated by NMFS' 2000 ESA consultation standard); and (4) a combined marine/freshwater exploitation rate no greater than 15 percent on Oregon Coastal Natural (OCN) coho.

At the Council's April 2003 meeting, status-quo management measures, as compared to 2002, were adopted to meet the foregoing requirements and include:

- In the area from Humbug Mountain in southern Oregon to Horse Mountain (near Shelter Cove), known as the Klamath Management Zone, the days of May 17 through September 14 are open. The daily bag and possession limit is two salmon of any species (except coho) and the minimum size is 20 inches total length (TL).
- South of Horse Mountain, the daily bag and possession limit is two salmon of any species (except coho) and the minimum size limit is 24 inches TL through April 30 and 20 inches TL thereafter.
- Between Horse Mountain and Point Arena, the season is February 15 (the Saturday nearest February 15) through November 16 (the Sunday nearest November 15).

In 2004, the season will open on February 14 (the Saturday nearest February 15) with a minimum size limit of 24 inches TL and same bag limit and gear restrictions as 2003.

- Between Point Arena and Pigeon Point, the season is April 12 (the Saturday nearest April 15) through November 9.

In 2004, the season will open on April 17 (the Saturday nearest April 15) with a minimum size limit of 24 inches TL and same bag limit and gear restrictions as 2003.

- **South of Pigeon Point, the season is March 29 (the Saturday nearest April 1) through September 28.**

In 2004, the season will open on April 3 (the Saturday nearest April 1) with a minimum size limit of 24 inches TL and same bag and gear restrictions as 2003.

- **As in 2002, for the ocean waters between Horse Mountain and Point Conception, salmon anglers are required to use no more than two barbless circle hooks (size unspecified) when fishing with bait and angling by any means other than trolling; trolling is defined as fishing from a boat or floating device that is making way by means of a source of power, other than drifting by means of the prevailing water current or weather conditions. A circle hook is defined as a hook with a generally circular shape, and a point which turns inwards, pointing directly to the shank at a 90 degree angle. This special gear restriction applies to each angler fishing for salmon or fishing from any boat or floating device with salmon on board. Barbless J hooks may be used only when trolling or fishing with an artificial lure without bait.**
- **As in 2002, north of Point Conception, when fishing for salmon or fishing from a boat or floating device with salmon on board, no more than two single point, single shank barbless hooks shall be used on all fishing gear and each ocean angler shall use only one rod.**

The final regulation recommendations were made by the Council on April 10, 2003. Upon approval of the Council's management recommendations by the Secretary of Commerce, the State must move in a timely manner to conform its ocean salmon sport fishing regulations in State waters (0 to 3 miles offshore) to those agreed upon by the Council; otherwise, preemption of State regulatory authority by the Secretary of Commerce could occur.

(REGULATORY LANGUAGE)

Section 27.80, Title 14, CCR, is amended to read:

(a) Methods of take:

(1) General Provisions. Only by angling as defined in Section 1.05. No sinkers or weights exceeding four pounds may be used, except that a fishing line may be attached to a sinker or weight of any size if such sinker or weight is suspended by a separate line and the fishing line is released automatically by a mechanical device from the sinker or weight when any fish is hooked. See Sections 1.74, 28.65 and 28.70.

(2) Barbless Hooks. No more than two (2) single point, single shank barbless hooks shall be used in the ocean north of Point Conception (34° 27' 00" N. lat.) when salmon fishing or fishing from any boat or floating device with salmon are on board.

(3) Other Hook Restrictions. When fishing with bait in the ocean between Horse Mountain (40° 05' 00" N. lat.) and Point Conception, if angling by any other means than trolling, then no more than two (2) single point, single shank, barbless circle hooks shall be used. The distance between the two hooks must not exceed five inches when measured from the top of the eye of the top hook to the inner base of the curve of the lower hook, and both hooks must be permanently tied in place (hard tied). A circle hook is defined as a hook with a generally circular shape, and a point which turns inwards, pointing directly to the shank at a 90 degree angle. Trolling is defined as angling from a boat or floating device that is making way by means of a source of power, other than drifting by means of the prevailing water current or weather conditions. See Section 28.65 (g).

(4) One Rod Restriction north of Point Conception. Salmon may be taken by angling with no more than one rod in ocean waters north of Point Conception. See Section 28.65 (e).

(b) Season:

(1) South of Pigeon Point (37° 11' 00" N. lat.). All waters of the ocean south of Pigeon Point are open to salmon fishing from March ~~30~~29, 20023 through September ~~29~~28, 20023 (Note: In 20034, the season will open ~~March 29~~April 3, the Saturday nearest April 1).

(2) Between Point Arena (38° 57' 30" N. lat.) and Pigeon Point. All waters of the ocean between Point Arena and Pigeon Point are open to fishing from April ~~13~~12, 20023 through November ~~10~~9, 20023 (Note: In 20034, the season will open April ~~12~~17, the Saturday nearest April 15).

(3) Between Horse Mountain and Point Arena. All waters of the ocean between Horse Mountain and Point Arena are open to salmon fishing from February ~~16~~15, 20023, the Saturday nearest February 15, ~~through July 7, 2002, and July 20, 2002~~ through November ~~17~~16, 20023, the Sunday nearest November 15 (Note: In 20034, the season will open February ~~15~~14, the Saturday nearest February 15).

(4) North of Horse Mountain and Humboldt Bay. All waters of the ocean north of Horse Mountain and Humboldt Bay are open to salmon fishing from May ~~17~~17, 20023 through

~~June 30, 2002, July 3 and 4, 2002, and August 1, 2002 through September 15~~14, 2002
(Note: In 20034, the season will be decided in April by the Pacific Fishery Management Council and California Fish and Game Commission and the section will be amended pursuant to the regulatory process).

EXCEPTION: The ocean area surrounding the Klamath River mouth bounded on the north by 41° 38' 48" N. lat. (approximately 6 nautical miles north of the Klamath River mouth), on the south by 41° 26' 48" N. lat. (approximately 6 nautical miles south of the Klamath River mouth), and extending 3 nautical miles offshore is closed to salmon fishing between August 1 and August 31. No salmon may be taken at any time in ocean waters at the mouths of the Smith and Klamath rivers and during August and September at the mouth of the Eel River. See Section 27.75.

(c) Limit:

(1) North of Horse Mountain: Two salmon per day. ~~No more than six fish in seven consecutive days.~~ See subsection (c)(3) below and Section 1.17.

(2) South of Horse Mountain: Two salmon per day. See subsection (c)(3) below and Section 1.17.

(3) Statewide Silver (coho) Salmon Restrictions: No silver (coho) salmon may be retained.

(d) Minimum size:

(1) North of Horse Mountain: Twenty inches total length.

(2) South of Horse Mountain: Twenty-four inches total length through April 30 and twenty inches total length thereafter. (Note: In 20034, the season will open with a minimum size of twenty-four inches total length).

NOTE: Authority cited: Sections 200, 202, 205, 220, 240, 2084 and 7891, Fish and Game Code. Reference: Sections 200, 202, 205 and 2084, Fish and Game Code.